HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 13983 OF 2006

DATED: 10.7.2006

Between:

V.N.Paramasivam alias Basha

… Petitioner

and

The Superintendent of Police, Chittore and three others. …Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.13983 OF 2006

ORAL ORDER:

The writ petition is misconceived as is the relief claimed therein. According to the petitioner he was elected on 04-07-2006 as a member of the Mandal Praja Parishad Territorial Constituency from khadervedu Territorial Constituency in Satyavedu Mandal, Chittoor District. Elections to the post of President of the Mandal Parishad are stated to be scheduled on 11-07-2006. The petitioner claims that he is contesting for the post of president and on behalf of a political party-the Telugu Desam Party. The petitioner further asserts that the 4th respondent had registered Cr.No.154 of 2006 on the file of the Satyavedu Police Station against the accused therein alleging commission of offences punishable under Sections. 171(E) IPC and Sec.34(A) of the A.P. Excise Act. According to the mahazar accompanying the crime report some persons were traveling in a Scorpio vehicle which was intercepted by the police was found to contain certain liquor bottles and cash. The petitioner asserts that he is neither the owner of the vehicle nor is licenced to deal with liquor under the Excise Act and the rules thereunder. However, states the petitioner, "certain persons traveling in the vehicle had given a statement that the money and liquor in the vehicle was meant for

distributing on behalf of the petitioner". The petitioner denies any acquaintance or proximity with the occupants of the vehicle; despite so the petitioner asserts, as he belongs to an opposition party (not in governance in-presenti), he is likely to be implicated by the respondents and arrested so as to deprive him of the opportunity to contest the president ship of the Mandal Parishad, Satyavedu. The petitioner states that he is willing to voluntarily surrender before the Court on 12-07-2006 and seeks a mandamus that he should not be arrested prior thereto as that it would deprive of him an opportunity to contest.

No mandamus can be issued as is sought. If the petitioner apprehends arrest in accordance with the due process of law and without justification, the remedy available to the petitioner is to seek either an anticipatory bail or a regular bail depending upon the point of time at which bail is sought. If the petitioner is incarcerated or detained without the due process of law, the petitioner has to seek relief by way of writ of Habeas Corpus. The untextured relief, namely, a mandamus not to arrest him is impermissable. It is not the province of this Court and at this point of time to go into the question whether the cash or liquor said to have been found in the Scorpio vehicle does not belong to the petitioner or was not being transported at his instance or for his electoral benefit. That is an issue that ought to be considered by an appropriate investigating or adjudicating agency in an appropriately framed proceedings and at the appropriate time.

No case is made out for interference. The writ petition is

dismissed at the stage of admission. The petitioner is however at liberty to pursue his appropriate remedies and nothing stated in this order shall be construed as an expression by this Court on the merits of the petitioner's claim. No order as to costs.

GODA RAGHURAM,J

10TH JULY,2006
*TSNR